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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ALLAN PARMELEE,

11 Petitioner,

12 v.

13 JEFFREY UTTECHT,

14 Respondent.

CASE NO. C06-1589RSM

ORDER DENYING CERTIFICATE OF
APPEALABILITY

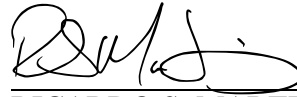
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16 Petitioner Allen Parmelee, now appearing through counsel, has filed a motion for a Certificate of
17 Appealability. 28 U.S.C. § 2253. *See* Dkt. # 9. To obtain such certificate and proceed with an appeal
18 of the denial of a petition for habeas corpus, the petitioner must make a “substantial showing of the denial
19 of a constitutional right.” 28 U.S.C. § 2253(c)(2). Petitioner “must demonstrate that the issues are
20 debatable among jurists of reason; that a court **could** resolve the issues [in a different manner]; or that
21 the questions are ‘adequate to deserve encouragement to proceed further.’ ” *Barefoot v. Estelle*, 463
22 U.S. 88, 893 n. 4 (1983).

23 Petitioner argues that he was denied his constitutional right to appeal when the state court
24 revoked his indigent status, and that a Certificate of Appealability should issue on that question as well as
25 others. However, the argument fails to demonstrate that the revocation of indigent status is itself
26 amenable to habeas review. It was on that basis, as well as petitioner’s failure to exhaust the merits of his
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1 ineffective assistance of counsel claim, that the habeas petition was dismissed without prejudice.
2 Petitioner has failed to demonstrate that this determination is debatable among reasonable jurists.

3 Accordingly, the petition for a Certificate of Appealability is DENIED. 28 U.S.C. § 2253(c)(2).

4 Dated this 14th day of March, 2007.

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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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